

Appeal from a decision of the Alaska State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer, AA-49139.

Affirmed.

1. Oil and Gas Leases: Applications: Filing

A noncompetitive oil and gas lease offer which is not accompanied by the required number of copies is properly rejected.

2. Evidence: Presumptions -- Oil and Gas Leases: Applications: Filing

Where there is no evidence of receipt by BLM of the required number of copies of a noncompetitive oil and gas lease offer, the presumption that BLM employees have properly discharged their duties and not lost or misplaced the lease offer documents is not overcome by a statement that the offer was enclosed in the same envelope with another lease offer received by BLM but not rejected for this defect.

APPEARANCES: Paul A. Boskind, for U.S.E. Foundation Ltd., Inc.

OPINION BY ADMINISTRATIVE JUDGE GRANT

U.S.E. Foundation Ltd., Inc., appeals from an April 2, 1984, decision by the Alaska State Office, Bureau of Land Management (BLM), rejecting its noncompetitive oil and gas lease offer, AA-49139. Appellant had filed the offer to lease sec. 32, T. 22 S., R. 7 E., Fairbanks Meridian, Alaska, on October 18, 1983. The decision stated that the offer was rejected because U.S.E. Foundation Ltd., Inc., failed to file the five copies of the offer required by Departmental regulation. The case record includes only one copy of the offer without any evidence that duplicate or additional copies were submitted.

[1] The regulation in effect when the lease offer was filed, 43 CFR 3111.1-1(a) (1983), required that five copies of the official offer form or

valid reproductions be filed in the proper office. ^{1/} Since the BLM case file contains only one copy of the offer and there is no indication that U.S.E. Foundation Ltd., Inc., filed any additional copies, the offer was properly rejected. Helen G. Haggard, 79 IBLA 320 (1984); Robert G. Lynn (On Reconsideration), 73 IBLA 288, 289 (1983); Curtis Wheeler, 55 IBLA 65 (1981).

Although appellant does not directly assert that five copies of the offer were filed, appellant argues that if the required copies were not filed the offer would have been returned by BLM without negotiating the check for the filing fee and rental. Appellant further alleges that another lease offer, AA-49138, was filed with BLM in the same envelope and was not rejected for this defect.

[2] A presumption of regularity supports the official acts of public officers and, absent clear evidence to the contrary, it will be presumed that they have properly discharged their official duties. Legille v. Dann, 544 F.2d 1 (D.C. Cir. 1976); S. H. Partners, 80 IBLA 153, 155 (1984). In this particular context, it is presumed that BLM employees have properly discharged their duties and not lost or misplaced documents filed with them. This presumption of regularity may be rebutted by sufficient probative evidence that the particular documents in question were not only transmitted but actually received by BLM. S. H. Partners, supra at 155.

Appellant's argument regarding the action of BLM in negotiating appellant's check and not returning the lease offer does not support the contention that the required number of copies of the offer were filed. Lease offers which have been filed are routinely processed including noting of the offer on the public land records prior to adjudication. This procedure is required to protect the rights of the offeror. For example, in the event of erroneous rejection of the offer, this allows the priority of the offeror to be maintained pending appeal. See John J. Nordhoff, 24 IBLA 73 (1976). Regarding fee payment, the filing fee is earned upon receipt and processing of the offer by BLM. With respect to the advance rental fee, this sum is held for the offeror's account pending adjudication of the lease offer. Upon final rejection of the lease offer, the advance rental payment is refunded to the offeror.

A review of the case file for lease offer AA-49138 referenced by appellant reveals that it was rejected because the lands were unavailable for leasing to the offeror. This ground for rejection precluded the need for BLM to adjudicate the lease offer for other defects or improprieties. However, we note that the case file for AA-49138 similarly includes only one copy of the lease offer.

Thus, appellant has presented no probative evidence to indicate that the required number of copies of the lease offer were filed. Absent positive evidence to the contrary, we must conclude that BLM properly rejected appellant's noncompetitive oil and gas lease offer for failure to submit additional copies of the offer in conformity with 43 CFR 3111.1-1(a).

^{1/} The regulation has since been amended to require the submission of three copies. 49 FR 20653 (May 16, 1984).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Edward W. Stuebing
Administrative Judge

